

PATENT COOPERATION TREATY


PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 05 DEC 2005
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Applicant's or agent's file reference 0000056033/AVH		FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/EP2004/013685		International filing date (day/month/year) 02.12.2004		Priority date (day/month/year) 04.12.2003
International Patent Classification (IPC) or national classification and IPC A01N37/52				
Applicant BASF AKTIENGESELLSCHAFT				
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau) a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>				
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>				
Date of submission of the demand 09.09.2005		Date of completion of this report 05.12.2005		
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016		Authorized Officer Fort, M Telephone No. +31 70 340-4123		



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/013685

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

Description, Pages

1-56 as originally filed

Claims, Numbers

1-10 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence-listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-10
	No: Claims	
Inventive step (IS)	Yes: Claims	2-4
	No: Claims	1, 5-10
Industrial applicability (IA)	Yes: Claims	1-10
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

Reference is made to the following documents:

- D1: EP-A-0 604 798 (AMERICAN CYANAMID COMPANY; BASF AKTIENGESSELLSCHAFT) 6 July 1994 (1994-07-06)
- D2: DATABASE CA [Online] CHEMICAL ABSTRACTS SERVICE, COLUMBUS, OHIO, US; KUHN, D. G. ET AL: "Cycloalkyl-substituted amidrazones: a novel class of insect control agents" XP002330111 retrieved from STN Database accession no. 1998:294837
- D3: DATABASE CA [Online] CHEMICAL ABSTRACTS SERVICE, COLUMBUS, OHIO, US; FURCH, J. A. ET AL: "Amidrazones: a new class of coleopteran insecticides" XP002330112 retrieved from STN Database accession no. 1998:294826

Before dealing with the question of novelty and inventive step, it is noted that claim 10 does not contain any technical step carried out in the claimed process and thus lacks clarity (Article 6 PCT).

-Each of the documents D1-D3 discloses the insecticidal and acaricidal activity of compounds of formula (I) and their use for plant protection. The use of said compounds for combatting pests in and on animals is not mentioned. The subject-matter of claims 1-10 is therefore new (Article 33(2) PCT).

-The document D1 which is regarded as being the closest prior art discloses the use of N-arylhydrazine derivatives of formula (I) for the protection of crops from the damage and loss caused by insect and acarid pests.

The problem underlying the present invention may be seen as that of controlling parasites in and on animals.

The claimed subject-matter differs from the teaching of D1 in that the compounds of formula (I) are used to control parasites in and on animals, whereas D1 relates only to crop protection.

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(SEPARATE SHEET)**

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Applicant's argument that all the compounds of formula (I) unexpectedly are both effective against animal parasites and also fulfil the challenging requirements of metabolic compatibility, low toxicity and safety in handling cannot be followed: in view of the numerous variations encompassed by claim 1, it is doubtful whether all the compounds used fulfil both the aforementioned requirements of activity and low-toxicity to animals and thus solve the above problem. Therefore, an objection under Article 33(3) PCT in combination with Rule 6.3 PCT is maintained against the subject-matter of claims 1 and 5-10.

The subject-matter of claims 2-4 (Article 33(3) PCT) can be considered as being inventive since it could not be predicted from any of the cited documents or any combination thereof that the amidrazones of formula I-B are safe pesticide which are effective for combatting pests in and on animals.

-The subject-matter of claims 1-10 is considered to be industrially applicable and the present application is therefore considered to satisfy the criterion set forth in Article 33 (4) PCT.